IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2785 OF 2004

F.N.Mistry & 3 Ors. ..Petitioners
Vs.
Municipal Corpn. of Gr. Bombay
& 3 Ors. ..Respondents

Mr.P.M.Havnur for Petitioner
Mrs. N.V. Sanglikar for Respondent No.1
Mr. K.R. Belosey, A.G.P. for Respondent No.2 and 3
Mr. A.S. Desai for Respondent No.5
Mr. P.K. Shroff for Intervener in Chamber Summons 10/2005.

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 13TH APRIL, 2005.

P.C.

. The Petitioners are members of Respondent No.5 Society. In the area where the building of the Petitioners has been put up, the developers have put up another building. This building was completed in the year 1998, according to Counsel for the interveners who are the developers. It is further pointed out and accepted by the Society that a sum of rupees three crores were paid to the Society and from that amount, amounts have been paid to the members including to the Petitioners herein which has been received by them.

. The contention of the Petitioners is that money was received not for putting up the construction as now standing, but only for using a

part of the available area.

. As the construction was completed in the year 1998 and the Petitioners are residing in the building and property where the new construction has come up, this would not be a fit case after a lapse of nearly six years for this Court to invoke its extra ordinary jurisdiction. Apart from that the soceity has not come to the Court complaining of any illegalities. It will be open to the Petitioners if advised to take appropriate steps in law by initiating any other proceedings as they may entitled to.

. It is made clear that this Court has not decided on the merits of the controversy of the Petition.

. With the above, the Petition is disposed of. No order as to costs.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)